

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GLORIA A. PERSYN

Claimant

VS.

CRISS OPTICAL MANUFACTURING CO.

Respondent

AND

SUPERIOR NATIONAL INSURANCE GROUP

Insurance Carrier

Docket No. 233,954

ORDER

Claimant appeals from an Order entered by Administrative Law Judge Nelsonna Potts Barnes on November 10, 1999.

ISSUES

This case came before the ALJ on claimant's application to review and modify the award and application for post-award medical treatment. The appealed Order granted claimant's request for additional medical treatment but denied claimant's request to treat as authorized medical expense the medical expenses claimant incurred before she asked respondent to provide additional treatment. Instead, the ALJ ordered that those expenses be treated as unauthorized. The Order denying medical expenses is treated as a final order. *Bryant v. U.S.D. No. 259*, Docket No. 80,577 (Kan. App. 1999).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Order should be affirmed.

The parties entered into an Agreed Award on September 21, 1999. The Agreed Award provided that claimant is entitled to future medical treatment only upon agreement of the parties or upon proper application to and approval by the Director.

Before the Agreed Award, claimant received authorized treatment from Dr. Robert L. Eyster and Dr. Phillip R. Mills. But sometime before the Agreed Award was entered, claimant went on her own to Dr. Pedro A. Murati. Dr. Murati prescribed pain medication which claimant paid for on her own. She did not ask respondent to provide this or any other additional treatment. Claimant eventually became unable to pay for the medication. On September 18,

1999, claimant went to the emergency room and was hospitalized for withdrawal from the pain medication.

The Agreed Award is dated September 21, 1999. In addition to providing for future medical expense on proper application and approval, the Agreed Award states respondent has paid \$56,250.95 in medical expenses and there is no current claim for past due authorized or unauthorized medical expenses.

In the appealed Order, the ALJ ordered respondent to provide additional treatment but denied the request for payment of expenses for Dr. Murati and the hospitalization of September 18, 1999. These expenses the ALJ treated as unauthorized and reimbursable subject to the \$500 limit for unauthorized medical expenses. The Board agrees.

Claimant and respondent both refer to the decision by the Court of Appeals in *Morris v. Kansas City Bd. of Public Util.*, 3 Kan. App. 2d 527, 598 P.2d 544 (1979). The Court there ordered respondent to pay for post-award medical expenses which respondent had not authorized. But in that case the evidence showed that claimant had notified respondent of the need for additional medical care before incurring those expenses. This factor appears important to the Court's decision and distinguishes the *Morris* case from this case. In this case, the claimant had apparently considered herself to be in need of treatment for some time but had not notified respondent or requested additional medical care. Instead, she went on her own. The treatment she received from Dr. Murati, including the medication, and the hospitalization in September 1999 should, therefore, be treated as unauthorized medical expense.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Nelsonna Potts Barnes on November 10, 1999, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of December 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Chris S. Cole, Wichita, KS
Ronald J. Laskowski, Topeka, KS

Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director